

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 330 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

CNTRAL BUREAU OF INVSTIGATION

Versus

MS RASHMIKA HARIPRASAD TRIVEDI

Appearance:

MR AMIT J SHAH for Petitioner
MR B.M. GUPTA for Respondent No. 1
MR K.C. SHAH, APP for Respondent No. 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 07/09/2000

ORAL JUDGEMENT

This revision is directed against the order of
discharge passed by Special Judge, Ahmedabad City, on
29.4.1999 discharging the respondent no.1 from

prosecution inter alia under Sections 13(2) and 13(1)(e) of the Prevention of Corruption Act.

2 Shri Amit J Shah, learned counsel for C.B.I., Shri B.M. Gupta, learned counsel for respondent no.1, and Shri K.C. Shah, learned APP, have been heard at length.

3 Shri A.J. Shah, learned counsel for C.B.I. has challenged the impugned order on variety of grounds which have been considered. In the course of the arguments Shri B.M. Gupta, learned counsel for the respondent no.1, has drawn my attention to para 13 of the application for discharge moved by him on 16th April 1999 and has argued that this ground which is material and goes to the root of the jurisdiction to frame the charge has not been considered by the Court below though there is some vague and inaccurate mention of this ground in paragraph 4 of the impugned order. In effect, his contention has been that an offence committed and punishable under Sections 13(1)(e) of the Prevention of Corruption Act shall not be investigated without the order of the police officer not below the rank of the Superintendent of Police. He has made a specific mention to Section 17(c) proviso 2 of the Prevention of Corruption Act on this point. Shri A.J. Shah, learned counsel for the CBI, agrees that the matter may be remanded to the Special Judge for considering this point also specifically.

4 In view of the above discussion, revision is allowed. The impugned order is quashed and set aside. The case is remanded to the Special Judge with a direction that he will again hear afresh the application exh.53 moved by respondent no.1 and shall afford opportunity of arguments to the learned counsel for the respondent no.1 as well as learned counsel for the CBI and shall decide the application afresh in accordance with law and he shall deem that all the reasonings given by him in the impugned order have been quashed. Fresh decision in accordance with law on Exh.53 shall be given by the Special Judge.

(mohd)